

AMENDED IN SENATE MAY 28, 2009

AMENDED IN SENATE APRIL 2, 2009

**SENATE BILL**

**No. 699**

**Introduced by Senator Alquist**

**(Principal coauthor: Senator Strickland)**

(Principal coauthor: Assembly Member Ruskin)

**(Coauthors: Senators Calderon, Harman, Maldonado, and Walters)**

(Coauthors: Assembly Members Blakeslee, Buchanan, Coto, Fuentes, Galgiani, Garrick, Harkey, Jeffries, Lieu, Niello, and Portantino)

February 27, 2009

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An act to add ~~Section 6377 to, and to add and repeal Sections 17053.91 and 23649.1 of, Sections 6377 and 6377.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 699, as amended, Alquist. Sales and use ~~tax: personal and corporate income tax: manufacturers' credit and exemption: taxes: exemption: sustainable development: manufacturing.~~

~~(1) The~~

*The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, and provides various exemptions from the taxes imposed by that law.*

*This bill would exempt from a specified portion of those taxes, for calendar years beginning on and after January 1, 2011, the gross receipts from the sale of, and the storage, use, or other consumption in*

*this state of, sustainable development equipment investments of tangible personal property purchased for use by a qualified person, as specified, and tangible personal property used primarily during the research and development process on qualified research. The bill would also exempt from a specified portion of those taxes, for calendar years beginning on or after January 1, 2013, the gross receipts from the sale of, and the storage, use, or other consumption of, sustainable development equipment investments of tangible personal property purchased for use by a qualified person to be used in manufacturing or other processes, as specified, and tangible personal property purchased by a qualified person and used primarily during the research and development process for qualified research, as defined tangible personal property purchased by a qualified person for use primarily in any stage of the manufacturing, processing, refining, fabricating, or recycling of property, as specified, and tangible personal property purchased for use by a contractor purchasing that property for use in the performance of a construction contract for the qualified person who will use the property as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or as a storage facility for use in connection with the manufacturing process.*

This bill would specify that this exemption does not apply to local sales and use taxes or transactions and use taxes.

~~(2) The Personal Income Tax Law and the Corporation Tax Law authorizes various credits against the taxes imposed by those laws.~~

~~This bill would allow a credit in amount equal to a specified portion of the amount of sales tax reimbursement paid to a retailer or use tax paid on a purchase of tangible personal property with respect to taxes paid on transactions occurring between January 1, 2010, and January 1, 2013, that are imposed under the Sales and Use Tax Law for the sale of, or the storage, use, or other consumption in this state of, tangible personal property purchased for use by a qualified person in manufacturing, processing, refining, fabricating, or recycling of property; tangible personal property purchased for use by a contractor for a specified purpose, sustainable development equipment investments of tangible personal property purchased for specified use, and tangible personal property used, but not consumed, primarily during the research and development process for qualified research, as defined. The credit would be applied in equal amounts over three successive taxable years beginning with the first taxable year beginning on or after January 1, 2013.~~

~~(3) This~~

*This bill would take effect immediately as a tax levy.*

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

~~SECTION 1. It is the intent of the Legislature to enact a competitive tax policy for manufacturers by providing for partial exemptions from state sales and use taxes for the sale of and the storage, use, or other consumption of specified manufacturing equipment and for sustainable manufacturing and research and development equipment investments used in the manufacturing process.~~

*SECTION 1. It is the intent of the Legislature to enact legislation that would exempt from specified state sales and use taxes the sale to, or use by, a manufacturer of tangible personal property purchased for use in manufacturing or otherwise processing property, or by a contractor performing a construction contract for the manufacturer, or by a person purchasing the property to use during the research and development process on qualified research.*

*SEC. 2. Section 6377 is added to the Revenue and Taxation Code, to read:*

*6377. (a) On and after January 1, 2010, there are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, all of the following:*

*(1) Sustainable development equipment investments of tangible personal property purchased by a qualified person for use primarily in any stage of the manufacturing, processing, refining, fabricating, or recycling of property beginning at the point any raw materials are received by the qualified person and introduced into the process and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling has altered tangible personal property to its completed form, including packaging, if required.*

*(2) Tangible personal property used primarily during the research and development process on qualified research.*

*(b) For purposes of this section:*

1     (1) “Fabricating” means to make, build, create, produce, or  
2     assemble components or property to work in a new or different  
3     manner.

4     (2) “Manufacturing” means the activity of converting or  
5     conditioning property by changing the form, composition, quality,  
6     or character of the property for ultimate sale at retail or use in  
7     the manufacturing of a product to be ultimately sold at retail.  
8     Manufacturing includes any improvements to tangible personal  
9     property that result in a greater service life or greater functionality  
10    than that of the original property.

11    (3) “Primarily” means tangible personal property used 50  
12    percent or more of the time in an activity described in subdivision  
13    (a).

14    (4) “Process” means the period beginning at the point at which  
15    any raw materials are received by the qualified taxpayer and  
16    introduced into the manufacturing, processing, refining,  
17    fabricating, or recycling activity of the qualified taxpayer and  
18    ending at the point at which the manufacturing, processing,  
19    refining, fabricating, or recycling activity of the qualified person  
20    has altered tangible personal property to its completed form,  
21    including packaging, if required. Raw materials shall be considered  
22    to have been introduced into the process when the raw materials  
23    are stored on the same premises where the qualified person’s  
24    manufacturing, processing, refining, or recycling activity is  
25    conducted. Raw materials that are stored on premises other than  
26    where the qualified person’s manufacturing, processing, refining,  
27    fabricating, or recycling activity is conducted, shall not be  
28    considered to have been introduced into the manufacturing,  
29    processing, refining, fabricating, or recycling process.

30    (5) “Processing” means the physical application of the materials  
31    and labor necessary to modify or change the characteristics of  
32    property.

33    (6) “Qualified person” means either of the following:

34    (A) A person who is engaged in those lines of business described  
35    in Codes 3111 to 3399, inclusive, or 5112 of the North American  
36    Industrial Classification System (NAICS) published by the United  
37    States Office of Management and Budget (OMB), 2002 edition.

38    (B) An affiliate of a person described in subparagraph (A)  
39    provided that the affiliate is a member of the qualified person’s  
40    unitary group for which a combined report is required to be filed

1 under Article 1 (commencing with Section 25101) of Chapter 17  
2 of Part 11.

3 (7) “Qualified research” means research that meets the  
4 requirements of Section 174 of the Internal Revenue Code.

5 (8) “Refining” means the process of converting a natural  
6 resource to an intermediate or finished product.

7 (9) “Sustainable development equipment” means qualified  
8 manufacturing or research and development equipment that meets  
9 any of the following criteria:

10 (A) It is consistent with meeting the goals and objectives of  
11 compliance with greenhouse gas emissions standards as set forth  
12 in Division 25.5 (commencing with Section 38500) of the Health  
13 and Safety Code.

14 (B) It promotes the reduction of wasteful, inefficient,  
15 unnecessary, or uneconomic uses of energy.

16 (C) It encourages the utilization of cost-effective water use  
17 efficiency practices to curtail the waste of water and to ensure that  
18 water use does not exceed reasonable needs.

19 (D) It promotes the utilization of recycled or reusable materials  
20 in the manufacturing process.

21 (E) It retains or expands California-based jobs for which  
22 associated production relocation has occurred in whole or in part  
23 to other states or regions in North America since 2001.

24 (10) “Tangible personal property” includes, but is not limited  
25 to, all of the following:

26 (A) Machinery and equipment, including component parts and  
27 contrivances such as belts, shafts, moving parts, and operating  
28 structures.

29 (B) Equipment or devices used or required to operate, control,  
30 regulate, or maintain the machinery and equipment, including,  
31 without limitation, computers, data processing equipment, and  
32 computer software, together with all repair and replacement parts  
33 with a useful life of one or more years, whether purchased  
34 separately or in conjunction with a complete machine and  
35 regardless of whether the machine or component parts are  
36 assembled by the qualified person or another party.

37 (C) Property used in pollution control that meets standards  
38 established by this state or any local or regional governmental  
39 agency within this state.

1 (D) Special purpose buildings and foundations used as an  
2 integral part of the manufacturing, processing, refining, or  
3 fabricating process, or that constitute a research or storage facility  
4 used during the manufacturing process.

5 (E) Fuels used or consumed in the manufacturing process.

6 (11) “Tangible personal property” does not include any of the  
7 following:

8 (A) Consumables with a normal useful life of less than one year,  
9 except as provided in subparagraph (E) of paragraph (10).

10 (B) Furniture, inventory, and equipment used in the extraction  
11 process, or equipment used to store finished products that have  
12 completed the manufacturing process.

13 (C) Buildings or components of buildings used solely for  
14 warehousing purposes after completion of the manufacturing  
15 process.

16 (D) Tangible personal property used primarily in administration,  
17 general management, or marketing.

18 (c) Notwithstanding subdivision (a), the exemption provided by  
19 this section shall not apply to any sale or use of property that,  
20 within one year from the date of purchase, is either removed from  
21 California, converted from an exempt use under subdivision (a)  
22 to some other use not qualifying for the exemption, or used in a  
23 manner not qualifying for the exemption. If a purchaser certifies  
24 in writing to the seller that the property purchased without payment  
25 of the tax will be used in a manner entitling the seller to regard  
26 the gross receipts from the sale as exempt from the sales tax, and  
27 within one year from the date of purchase, the purchaser (A)  
28 removes that property outside California, (B) converts that  
29 property for use in a manner not qualifying for the exemption, or  
30 (C) uses that property in a manner not qualifying for the exemption,  
31 the purchaser shall be liable for payment of sales tax, with  
32 applicable interest, as if the purchaser were a retailer making a  
33 retail sale of the property at the time the property is so removed,  
34 converted, or used, and the sales price of the property to the  
35 purchaser shall be deemed the gross receipts from that retail sale.

36 (d) (1) Notwithstanding any provision of the Bradley-Burns  
37 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing  
38 with Section 7200)) or the Transactions and Use Tax Law (Part  
39 1.6 (commencing with Section 7251)), the exemption established  
40 by this section shall not apply with respect to any tax levied by a

1 county, city, or district pursuant to, or in accordance with, either  
2 of those laws.

3 (2) Notwithstanding subdivision (a), the exemption provided by  
4 this section shall not apply with respect to any tax levied pursuant  
5 to Section 6051.2, 6051.5, 6201.2, or 6201.5 or pursuant to Section  
6 35 of Article XIII of the California Constitution.

7 ~~SEC. 2. Section 6377 is added to the Revenue and Taxation~~  
8 ~~Code, to read:~~

9 ~~6377. On or~~

10 ~~SEC. 3. Section 6377.5 is added to the Revenue and Taxation~~  
11 ~~Code, to read:~~

12 ~~6377.5. (a) On and after January 1, 2013, there are exempted~~  
13 ~~from the taxes imposed by this part the gross receipts from the sale~~  
14 ~~of, and the storage, use, or other consumption in this state of, all~~  
15 ~~of the following:~~

16 (1) Tangible personal property purchased by a qualified person  
17 for use primarily in any stage of the manufacturing, processing,  
18 refining, fabricating, or recycling of property, beginning at the  
19 point any raw materials are received by the qualified person and  
20 introduced into the process and ending at the point at which the  
21 manufacturing, processing, refining, fabricating, or recycling has  
22 altered property to its completed form, including packaging, if  
23 required.

24 (2) Tangible personal property purchased for use by a contractor  
25 purchasing that property for use in the performance of a  
26 construction contract for the qualified person who will use the  
27 property as an integral part of the manufacturing, processing,  
28 refining, fabricating, or recycling process, or as a storage facility  
29 for use in connection with the manufacturing process.

30 ~~(3) Sustainable development equipment investments of tangible~~  
31 ~~personal property purchased by a qualified person for use primarily~~  
32 ~~in any stage of the manufacturing, processing, refining, fabricating,~~  
33 ~~or recycling of property beginning at the point any raw materials~~  
34 ~~are received by the qualified person and introduced into the process~~  
35 ~~and ending at the point at which the manufacturing, processing,~~  
36 ~~refining, fabricating, or recycling has altered property to its~~  
37 ~~completed form, including packaging, if required.~~

38 ~~(4) Tangible personal property used primarily during the~~  
39 ~~research and development process on qualified research.~~

40 (b) For purposes of this section:

1 (1) “Fabricating” means to make, build, create, produce, or  
2 assemble components or property to work in a new or different  
3 manner.

4 (2) “Manufacturing” means the activity of converting or  
5 conditioning property by changing the form, composition, quality,  
6 or character of the property for ultimate sale at retail or use in the  
7 manufacturing of a product to be ultimately sold at retail.  
8 Manufacturing includes any improvements to tangible personal  
9 property that result in a greater service life or greater functionality  
10 than that of the original property.

11 (3) “Primarily” means tangible personal property used 50 percent  
12 or more of the time in an activity described in subdivision (a).

13 (4) “Process” means the period beginning at the point at which  
14 any raw materials are received by the qualified taxpayer and  
15 introduced into the manufacturing, processing, refining, fabricating,  
16 or recycling activity of the qualified taxpayer and ending at the  
17 point at which the manufacturing, processing, refining, fabricating,  
18 or recycling activity of the qualified person has altered tangible  
19 personal property to its completed form, including packaging, if  
20 required. Raw materials shall be considered to have been  
21 introduced into the process when the raw materials are stored on  
22 the same premises where the qualified person’s manufacturing,  
23 processing, refining, or recycling activity is conducted. Raw  
24 materials that are stored on premises other than where the qualified  
25 person’s manufacturing, processing, refining, fabricating, or  
26 recycling activity is conducted; shall not be considered to have  
27 been introduced into the manufacturing, processing, refining,  
28 fabricating, or recycling process.

29 (5) “Processing” means the physical application of the materials  
30 and labor necessary to modify or change the characteristics of  
31 property.

32 (6) “Qualified person” means either of the following:

33 (A) A person who is engaged in those lines of business described  
34 in Codes 3111 to 3399, inclusive, or 5112 of the North American  
35 Industrial Classification System (NAICS) published by the United  
36 States Office of Management and Budget (OMB), 2002 edition.

37 (B) An affiliate of a person described in subparagraph (A)  
38 provided that the affiliate is a member of the qualified person’s  
39 unitary group for which a combined report is required to be filed



1 under Article 1 (commencing with Section 25101) of Chapter 17  
2 of Part 11.

3 ~~(7) “Qualified research” means research that meets the~~  
4 ~~requirements of Section 174 of the Internal Revenue Code.~~

5 ~~(8)~~

6 (7) “Refining” means the process of converting a natural  
7 resource to an intermediate or finished product.

8 ~~(9) “Sustainable development equipment” means qualified~~  
9 ~~manufacturing or research and development equipment that meets~~  
10 ~~any of the following:~~

11 ~~(A) Is consistent with meeting the goals and objectives of~~  
12 ~~compliance with greenhouse gas emissions standards as set forth~~  
13 ~~in Division 25.5 (commencing with Section 38500) of the Health~~  
14 ~~and Safety Code.~~

15 ~~(B) Promotes the reduction of wasteful, inefficient, unnecessary,~~  
16 ~~or uneconomic uses of energy.~~

17 ~~(C) Encourages the utilization of cost-effective water use~~  
18 ~~efficiency practices to curtail the waste of water and to ensure that~~  
19 ~~water use does not exceed reasonable needs.~~

20 ~~(D) Promotes the utilization of recycled or reusable materials~~  
21 ~~in the manufacturing process.~~

22 ~~(10)~~

23 (8) “Tangible personal property” includes, but is not limited to,  
24 all of the following:

25 (A) Machinery and equipment, including component parts and  
26 contrivances such as belts, shafts, moving parts, and operating  
27 structures.

28 (B) Equipment or devices used or required to operate, control,  
29 regulate, or maintain the machinery and equipment, including,  
30 without limitation, computers, data processing equipment, and  
31 computer software, together with all repair and replacement parts  
32 with a useful life of one or more years, whether purchased  
33 separately or in conjunction with a complete machine and  
34 regardless of whether the machine or component parts are  
35 assembled by the qualified person or another party.

36 (C) Property used in pollution control that meets standards  
37 established by this state or any local or regional governmental  
38 agency within this state.

39 (D) Special purpose buildings and foundations used as an  
40 integral part of the manufacturing, processing, refining, or

1 fabricating process, or that constitute a research or storage facility  
2 used during the manufacturing process.

3 (E) Fuels used or consumed in the manufacturing process.

4 ~~(H)~~

5 (9) “Tangible personal property” does not include any of the  
6 following:

7 (A) Consumables with a normal useful life of less than one year,  
8 except as provided in subparagraph (E) of paragraph ~~(10)~~ (8).

9 (B) Furniture, inventory, and equipment used in the extraction  
10 process, or equipment used to store finished products that have  
11 completed the manufacturing process.

12 (C) Buildings or components of buildings used solely for  
13 warehousing purposes after completion of the manufacturing  
14 process.

15 (D) Tangible personal property used primarily in administration,  
16 general management, or marketing.

17 ~~(e) No exemption shall be allowed under this section unless the~~  
18 ~~purchaser furnishes the retailer with an exemption certificate,~~  
19 ~~completed in accordance with any instructions or regulations as~~  
20 ~~the board may prescribe.~~

21 ~~(d) Notwithstanding any provision of the Bradley-Burns~~  
22 ~~Uniform Local Sales and Use Tax Law (Part 1.5 (commencing~~  
23 ~~with Section 7200)) or the Transactions and Use Tax Law (Part~~  
24 ~~1.6 (commencing with Section 7251)), the exemption established~~  
25 ~~by this section shall not apply with respect to any tax levied by a~~  
26 ~~county, city, or district pursuant to, or in accordance with, either~~  
27 ~~of those laws.~~

28 ~~(e) (1)~~

29 (c) Notwithstanding subdivision (a), the exemption provided  
30 by this section shall not apply to any sale or use of property that,  
31 within one year from the date of purchase, is either removed from  
32 California, converted from an exempt use under subdivision (a)  
33 to some other use not qualifying for the exemption, or used in a  
34 manner not qualifying for the exemption. *If a purchaser certifies*  
35 *in writing to the seller that the property purchased without payment*  
36 *of the tax will be used in a manner entitling the seller to regard*  
37 *the gross receipts from the sale as exempt from the sales tax, and*  
38 *within one year from the date of purchase, the purchaser (A)*  
39 *removes that property outside California, (B) converts that*  
40 *property for use in a manner not qualifying for the exemption, or*

1 (C) uses that property in a manner not qualifying for the exemption,  
2 the purchaser shall be liable for payment of sales tax, with  
3 applicable interest, as if the purchaser were a retailer making a  
4 retail sale of the property at the time the property is so removed,  
5 converted, or used, and the sales price of the property to the  
6 purchaser shall be deemed the gross receipts from that retail sale.

7 (d) (1) Notwithstanding any provision of the Bradley-Burns  
8 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing  
9 with Section 7200)) or the Transactions and Use Tax Law (Part  
10 1.6 (commencing with Section 7251)), the exemption established  
11 by this section shall not apply with respect to any tax levied by a  
12 county, city, or district pursuant to, or in accordance with, either  
13 of those laws.

14 (2) Notwithstanding subdivision (a), the exemption established  
15 by paragraphs (1) and (2) of subdivision (a) provided by this section  
16 shall not apply with respect to any tax levied pursuant to Sections  
17 6051.2, 6051.5, 6051.7, 6201.2, 6201.5, or 6201.7 or pursuant to  
18 Section 35 of Article XIII of the California Constitution.

19 ~~(3) Notwithstanding subdivision (a), the exemption established~~  
20 ~~by paragraphs (3) and (4) of subdivision (a) shall not apply with~~  
21 ~~respect to any tax levied pursuant to Section 6051.2, 6051.5,~~  
22 ~~6201.2, or 6201.5 or pursuant to Section 35 of Article XIII of the~~  
23 ~~California Constitution.~~

24 ~~(f) If a purchaser certifies in writing to the seller that the property~~  
25 ~~purchased without payment of the tax will be used in a manner~~  
26 ~~entitling the seller to regard the gross receipts from the sale as~~  
27 ~~exempt from the sales tax, and within one year from the date of~~  
28 ~~purchase, the purchaser (1) removes that property outside~~  
29 ~~California, (2) converts that property for use in a manner not~~  
30 ~~qualifying for the exemption, or (3) uses that property in a manner~~  
31 ~~not qualifying for the exemption, the purchaser shall be liable for~~  
32 ~~payment of sales tax, with applicable interest, as if the purchaser~~  
33 ~~were a retailer making a retail sale of the property at the time the~~  
34 ~~property is so removed, converted, or used, and the sales price of~~  
35 ~~the property to the purchaser shall be deemed the gross receipts~~  
36 ~~from that retail sale.~~

37 SEC. 3. Section 17053.91 is added to the Revenue and Taxation  
38 Code, to read:

39 17053.91. (a) (1) There shall be allowed to a qualified person  
40 as a credit against the "net tax" as defined in Section 17039, an

1 amount equal to that portion of sales tax reimbursement paid to a  
2 retailer or use tax paid on a purchase of tangible personal property  
3 that is placed in service in this state, equal to 5 percent of the gross  
4 receipts or sales price on transactions described in subparagraphs  
5 (A) and (B), occurring between January 1, 2010, and January 1,  
6 2013, that are subject to tax under Part 1 (commencing with Section  
7 6351) of Division 2.

8 ~~(A) Tangible personal property is purchased by a qualified~~  
9 ~~person for use primarily in any stage of the manufacturing,~~  
10 ~~processing, refining, fabricating, or recycling of property,~~  
11 ~~beginning at the point any raw materials are received by the~~  
12 ~~qualified person and introduced into the process and ending at the~~  
13 ~~point at which the manufacturing, processing, refining, fabricating,~~  
14 ~~or recycling has altered property to its completed form, including~~  
15 ~~packaging, if required.~~

16 ~~(B) Tangible personal property is purchased for use by a~~  
17 ~~contractor purchasing that property for use in the performance of~~  
18 ~~a construction contract for the qualified person who will use the~~  
19 ~~property as an integral part of the manufacturing, processing,~~  
20 ~~refining, fabricating, or recycling process, or as a storage facility~~  
21 ~~for use in connection with the manufacturing process.~~

22 ~~(2) There shall be allowed to a qualified person as a credit~~  
23 ~~against the "net tax" as defined in Section 17039 an amount equal~~  
24 ~~to that portion of sales tax reimbursement paid to a retailer or use~~  
25 ~~tax paid on a purchase of tangible personal property that is placed~~  
26 ~~in service in this state, equal to 6 percent of the gross receipts or~~  
27 ~~sales price on transactions described in subparagraphs (A) and (B),~~  
28 ~~occurring between January 1, 2010, and January 1, 2013, that are~~  
29 ~~subject to tax under Part 1 (commencing with Section 6351) of~~  
30 ~~Division 2.~~

31 ~~(A) Sustainable development equipment investments of tangible~~  
32 ~~personal property is purchased by a qualified person for use~~  
33 ~~primarily in any stage of the manufacturing, processing, refining,~~  
34 ~~fabricating, or recycling of property beginning at the point any~~  
35 ~~raw materials are received by the qualified person and introduced~~  
36 ~~into the process and ending at the point at which the manufacturing,~~  
37 ~~processing, refining, fabricating, or recycling has altered property~~  
38 ~~to its completed form, including packaging, if required.~~

1 ~~(B) Tangible personal property is purchased by a qualified~~  
2 ~~person and used primarily during the research and development~~  
3 ~~process on qualified research.~~

4 ~~(b) The amount of any credit allowed under subdivision (a) shall~~  
5 ~~be applied in equal amounts over three successive taxable years~~  
6 ~~beginning with the first taxable year beginning on or after January~~  
7 ~~1, 2013.~~

8 ~~(c) For purposes of this section:~~

9 ~~(1) “Fabricating” means to make, build, create, produce, or~~  
10 ~~assemble components or property to work in a new or different~~  
11 ~~manner.~~

12 ~~(2) “Manufacturing” means the activity of converting or~~  
13 ~~conditioning property by changing the form, composition, quality,~~  
14 ~~or character of the property for ultimate sale at retail or use in the~~  
15 ~~manufacturing of a product to be ultimately sold at retail.~~  
16 ~~Manufacturing includes any improvements to tangible personal~~  
17 ~~property that result in a greater service life or greater functionality~~  
18 ~~than that of the original property.~~

19 ~~(3) “Primarily” means tangible personal property used 50 percent~~  
20 ~~or more of the time in an activity described in subdivision (a).~~

21 ~~(4) “Process” means the period beginning at the point at which~~  
22 ~~any raw materials are received by the qualified person and~~  
23 ~~introduced into the manufacturing, processing, refining, fabricating,~~  
24 ~~or recycling activity of the qualified person and ending at the point~~  
25 ~~at which the manufacturing, processing, refining, fabricating, or~~  
26 ~~recycling activity of the qualified person has altered tangible~~  
27 ~~personal property to its completed form, including packaging, if~~  
28 ~~required. Raw materials shall be considered to have been~~  
29 ~~introduced into the process when the raw materials are stored on~~  
30 ~~the same premises where the qualified person’s manufacturing,~~  
31 ~~processing, refining, or recycling activity is conducted. Raw~~  
32 ~~materials that are stored on premises other than where the qualified~~  
33 ~~person’s manufacturing, processing, refining, fabricating, or~~  
34 ~~recycling activity is conducted, shall not be considered to have~~  
35 ~~been introduced into the manufacturing, processing, refining,~~  
36 ~~fabricating, or recycling process.~~

37 ~~(5) “Processing” means the physical application of the materials~~  
38 ~~and labor necessary to modify or change the characteristics of~~  
39 ~~property.~~

40 ~~(6) “Qualified person” means either of the following:~~

1 (A) A person who is engaged in those lines of business described  
2 in Codes 3111 to 3399, inclusive, or 5112 of the North American  
3 Industrial Classification System (NAICS) published by the United  
4 States Office of Management and Budget (OMB), 2002 edition.

5 (B) An affiliate of a person described in subparagraph (A)  
6 provided that the affiliate is a member of the qualified person's  
7 unitary group for which a combined report is required to be filed  
8 under Article 1 (commencing with Section 25101) of Chapter 17  
9 of Part 11.

10 (7) "~~Qualified research~~" means research that meets the  
11 requirements of Section 174 of the Internal Revenue Code.

12 (8) "~~Refining~~" means the process of converting a natural  
13 resource to an intermediate or finished product.

14 (9) "~~Sustainable development equipment~~" means qualified  
15 manufacturing or research and development equipment that meets  
16 any of the following:

17 (A) Is consistent with meeting the goals and objectives of  
18 compliance with greenhouse gas emissions standards as set forth  
19 in Division 25.5 (commencing with Section 38500) of the Health  
20 and Safety Code.

21 (B) Promotes the reduction of wasteful, inefficient, unnecessary,  
22 or uneconomic uses of energy.

23 (C) Encourages the utilization of cost-effective water use  
24 efficiency practices to curtail the waste of water and to ensure that  
25 water use does not exceed reasonable needs.

26 (D) Promotes the utilization of recycled or reusable materials  
27 in the manufacturing process.

28 (10) "~~Tangible personal property~~" includes, but is not limited  
29 to, all of the following:

30 (A) Machinery and equipment, including component parts and  
31 contrivances such as belts, shafts, moving parts, and operating  
32 structures.

33 (B) Equipment or devices used or required to operate, control,  
34 regulate, or maintain the machinery and equipment, including,  
35 without limitation, computers, data processing equipment, and  
36 computer software, together with all repair and replacement parts  
37 with a useful life of one or more years, whether purchased  
38 separately or in conjunction with a complete machine and  
39 regardless of whether the machine or component parts are  
40 assembled by the qualified person or another party.

1 ~~(C) Property used in pollution control that meets standards~~  
2 ~~established by this state or any local or regional governmental~~  
3 ~~agency within this state.~~

4 ~~(D) Special purpose buildings and foundations used as an~~  
5 ~~integral part of the manufacturing, processing, refining, or~~  
6 ~~fabricating process, or that constitute a research or storage facility~~  
7 ~~used during the manufacturing process.~~

8 ~~(E) Fuels used or consumed in the manufacturing process.~~

9 ~~(11) “Tangible personal property” does not include any of the~~  
10 ~~following:~~

11 ~~(A) Consumables with a normal useful life of less than one year,~~  
12 ~~except as provided in subparagraph (E) of paragraph (10).~~

13 ~~(B) Furniture, inventory, and equipment used in the extraction~~  
14 ~~process, or equipment used to store finished products that have~~  
15 ~~completed the manufacturing process.~~

16 ~~(C) Buildings or components of buildings used solely for~~  
17 ~~warehousing purposes after completion of the manufacturing~~  
18 ~~process.~~

19 ~~(D) Property that is used primarily in administration, general~~  
20 ~~management, or marketing.~~

21 ~~(E) Property that, within one year from the date of purchase, is~~  
22 ~~either removed from California, converted from a use described~~  
23 ~~in subdivision (a) to some other use not described in subdivision~~  
24 ~~(a), or used in a manner not described in subdivision (a).~~

25 ~~(d) In the case where the credit otherwise allowed under this~~  
26 ~~section exceeds the “net tax” for the taxable year, that portion of~~  
27 ~~the credit that exceeds the “net tax” may be carried over to reduce~~  
28 ~~the net tax in the following taxable year, and the succeeding four~~  
29 ~~taxable years if necessary, until the credit is exhausted.~~

30 ~~(e) This section shall remain in effect only until December 1,~~  
31 ~~2016, and as of that date is repealed.~~

32 ~~SEC. 4. Section 23649.1 is added to the Revenue and Taxation~~  
33 ~~Code, to read:~~

34 ~~23649.1. (a) (1) There shall be allowed to a qualified person~~  
35 ~~as a credit against the “tax” as defined in Section 23036, an amount~~  
36 ~~equal to that portion of sales tax reimbursement paid to a retailer~~  
37 ~~or use tax paid on a purchase of tangible personal property that is~~  
38 ~~placed in service in this state equal to 6 percent of the gross receipts~~  
39 ~~or sales price on transactions described in subparagraphs (A) and~~  
40 ~~(B) occurring between January 1, 2010, and January 1, 2013, that~~

1 are subject to tax under Part 1 (commencing with Section 6351)  
2 of Division 2.

3 (A) Tangible personal property is purchased by a qualified  
4 person for use primarily in any stage of the manufacturing,  
5 processing, refining, fabricating, or recycling of property,  
6 beginning at the point any raw materials are received by the  
7 qualified person and introduced into the process and ending at the  
8 point at which the manufacturing, processing, refining, fabricating,  
9 or recycling has altered property to its completed form, including  
10 packaging, if required.

11 (B) Tangible personal property is purchased for use by a  
12 contractor purchasing that property for use in the performance of  
13 a construction contract for the qualified person who will use the  
14 property as an integral part of the manufacturing, processing,  
15 refining, fabricating, or recycling process, or as a storage facility  
16 for use in connection with the manufacturing process.

17 (2) There shall be allowed to a qualified person as a credit  
18 against the "tax" as defined in Section 23036, and amount equal  
19 to that portion of sales tax reimbursement paid to a retailer or use  
20 tax on a purchase of tangible personal property that is placed in  
21 service in this state, equal to 5 percent of the gross receipts or sales  
22 price on transactions occurring between January 1, 2010, and  
23 January 1, 2013, that are subject to tax under Part 1 (commencing  
24 with Section 6351) of Division 2.

25 (A) Sustainable development equipment investments of tangible  
26 personal property purchased by a qualified person for use primarily  
27 in any stage of the manufacturing, processing, refining, fabricating,  
28 or recycling of property beginning at the point any raw materials  
29 are received by the qualified person and introduced into the process  
30 and ending at the point at which the manufacturing, processing,  
31 refining, fabricating, or recycling has altered property to its  
32 completed form, including packaging, if required.

33 (B) Tangible personal property is purchased by a qualified  
34 person and used primarily during the research and development  
35 process on qualified research.

36 (b) The amount of any credit allowed under subdivision (a) shall  
37 be applied in equal amounts over three successive taxable years  
38 beginning with the first taxable year beginning on or after January  
39 1, 2013.

40 (c) For purposes of this section:



1     ~~(1) “Fabricating” means to make, build, create, produce, or~~  
2 ~~assemble components or property to work in a new or different~~  
3 ~~manner.~~

4     ~~(2) “Manufacturing” means the activity of converting or~~  
5 ~~conditioning property by changing the form, composition, quality,~~  
6 ~~or character of the property for ultimate sale at retail or use in the~~  
7 ~~manufacturing of a product to be ultimately sold at retail.~~  
8 ~~Manufacturing includes any improvements to tangible personal~~  
9 ~~property that result in a greater service life or greater functionality~~  
10 ~~than that of the original property.~~

11     ~~(3) “Primarily” means tangible personal property used 50 percent~~  
12 ~~or more of the time in an activity described in subdivision (a).~~

13     ~~(4) “Process” means the period beginning at the point at which~~  
14 ~~any raw materials are received by the qualified person and~~  
15 ~~introduced into the manufacturing, processing, refining, fabricating,~~  
16 ~~or recycling activity of the qualified person and ending at the point~~  
17 ~~at which the manufacturing, processing, refining, fabricating, or~~  
18 ~~recycling activity of the qualified person has altered tangible~~  
19 ~~personal property to its completed form, including packaging, if~~  
20 ~~required. Raw materials shall be considered to have been~~  
21 ~~introduced into the process when the raw materials are stored on~~  
22 ~~the same premises where the qualified person’s manufacturing,~~  
23 ~~processing, refining, or recycling activity is conducted. Raw~~  
24 ~~materials that are stored on premises other than where the qualified~~  
25 ~~person’s manufacturing, processing, refining, fabricating, or~~  
26 ~~recycling activity is conducted, shall not be considered to have~~  
27 ~~been introduced into the manufacturing, processing, refining,~~  
28 ~~fabricating, or recycling process.~~

29     ~~(5) “Processing” means the physical application of the materials~~  
30 ~~and labor necessary to modify or change the characteristics of~~  
31 ~~property.~~

32     ~~(6) “Qualified person” means either of the following:~~

33     ~~(A) A person who is engaged in those lines of business described~~  
34 ~~in Codes 3111 to 3399, inclusive, or 5112 of the North American~~  
35 ~~Industrial Classification System (NAICS) published by the United~~  
36 ~~States Office of Management and Budget (OMB), 2002 edition.~~

37     ~~(B) An affiliate of a person described in subparagraph (A)~~  
38 ~~provided that the affiliate is a member of the qualified person’s~~  
39 ~~unitary group for which a combined report is required to be filed~~

1 under Article 1 (commencing with Section 25101) of Chapter 17  
2 of Part 11.

3 (7) “Qualified research” means research that meets the  
4 requirements of Section 174 of the Internal Revenue Code.

5 (8) “Refining” means the process of converting a natural  
6 resource to an intermediate or finished product.

7 (9) “Sustainable development equipment” means qualified  
8 manufacturing or research and development equipment that meets  
9 any of the following:

10 (A) Is consistent with meeting the goals and objectives of  
11 compliance with greenhouse gas emissions standards as set forth  
12 in Division 25.5 (commencing with Section 38500) of the Health  
13 and Safety Code.

14 (B) Promotes the reduction of wasteful, inefficient, unnecessary,  
15 or uneconomic uses of energy.

16 (C) Encourages the utilization of cost-effective water use  
17 efficiency practices to curtail the waste of water and to ensure that  
18 water use does not exceed reasonable needs.

19 (D) Promotes the utilization of recycled or reusable materials  
20 in the manufacturing process.

21 (10) “Tangible personal property” includes, but is not limited  
22 to, all of the following:

23 (A) Machinery and equipment, including component parts and  
24 contrivances such as belts, shafts, moving parts, and operating  
25 structures.

26 (B) Equipment or devices used or required to operate, control,  
27 regulate, or maintain the machinery and equipment, including,  
28 without limitation, computers, data processing equipment, and  
29 computer software, together with all repair and replacement parts  
30 with a useful life of one or more years, whether purchased  
31 separately or in conjunction with a complete machine and  
32 regardless of whether the machine or component parts are  
33 assembled by the qualified person or another party.

34 (C) Property used in pollution control that meets standards  
35 established by this state or any local or regional governmental  
36 agency within this state.

37 (D) Special purpose buildings and foundations used as an  
38 integral part of the manufacturing, processing, refining, or  
39 fabricating process, or that constitute a research or storage facility  
40 used during the manufacturing process.

1 ~~(E) Fuels used or consumed in the manufacturing process.~~

2 ~~(11) “Tangible personal property” does not include any of the~~  
3 ~~following:~~

4 ~~(A) Consumables with a normal useful life of less than one year,~~  
5 ~~except as provided in subparagraph (E) of paragraph (10):~~

6 ~~(B) Furniture, inventory, and equipment used in the extraction~~  
7 ~~process, or equipment used to store finished products that have~~  
8 ~~completed the manufacturing process:~~

9 ~~(C) Buildings or components of buildings used solely for~~  
10 ~~warehousing purposes after completion of the manufacturing~~  
11 ~~process:~~

12 ~~(D) Personal property that is used primarily in administration,~~  
13 ~~general management, or marketing:~~

14 ~~(E) Property that, within one year from the date of purchase, is~~  
15 ~~either removed from California, converted from a use described~~  
16 ~~in subdivision (a), to some other use not described in subdivision~~  
17 ~~(a), or used in a manner not described in subdivision (a) or (b):~~

18 ~~(d) In the case where the credit otherwise allowed under this~~  
19 ~~section exceeds the “tax” for the taxable year, that portion of the~~  
20 ~~credit that exceeds the “tax” may be carried over to reduce the tax~~  
21 ~~in the following taxable year, and the succeeding four taxable years~~  
22 ~~if necessary, until the credit is exhausted:~~

23 ~~(e) This section shall remain in effect only until December 1,~~  
24 ~~2016, and as of that date is repealed.~~

25 ~~SEC. 5.~~

26 *SEC. 4.* This act provides for a tax levy within the meaning of  
27 Article IV of the Constitution and shall go into immediate effect.